

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JACKSON LEWIS LLP
ATTORNEYS FOR DEFENDANTS
58 South Service Road, Ste. 410
Melville, New York 11747
(631) 247-0404

ATTORNEY OF RECORD:
DAVID S. GREENHAUS, ESQ.
NOEL P. TRIPP, ESQ.

-----X
JOHN PAUL P. BALINGIT,

Plaintiff,

-against-

COMMUNITY NATIONAL BANK CORP.
and PRESTIGE EMPLOYEE
ADMINISTRATORS, INC.,

Defendants.
-----X

Civil Action No.: CV 11-0440

Feuerstein, J.
Boyle, M.J.

TO: FELIX Q. VINLUAN, ESQ.
LAW OFFICE OF FELIX Q. VINLUAN
ATTORNEYS FOR PLAINTIFF
450 Seventh Ave., Ste. 931
New York, NY 10123
(212) 643-2692

NOTICE OF MOTION FOR PARTIAL DISMISSAL OF THE COMPLAINT

PLEASE TAKE NOTICE that, upon the annexed affirmation of David S. Greenhaus In Support of Defendants' Motion For Partial Dismissal of the Complaint, sworn to on April 26, 2011 and the exhibits annexed thereto; the Memorandum of Law In Support Of Defendants' Motion For Partial Dismissal of the Complaint, and all the pleadings and

proceedings heretofore had herein, the undersigned counsel for Defendants will move this Court, before the Hon. Sandra J. Feuerstein, United States District Judge, at the United States District Courthouse, Eastern District of New York, 100 Federal Plaza, Central Islip, New York 11722-4449, for an order:

(1) granting Defendants' motion to dismiss the Fourth Cause of Action from the Complaint, in its entirety, with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6);

(2) dismissing the Fourth Cause of Action from the Complaint in their entirety, with prejudice, against Defendants; and,

(3) for such other and further relief as the Court may deem just and proper.

Dated: Melville, New York
April 26, 2011

Respectfully submitted,

JACKSON LEWIS LLP
ATTORNEYS FOR DEFENDANTS
58 South Service Rd., Ste. 410
Melville, New York 11747
(631) 247-0404

By:



DAVID S. GREENHAUS, ESQ.
NOEL P. TRIPP, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2011, I caused a true and correct copy of the enclosed **Defendants' Notice of Motion For Partial Dismissal of the Complaint and Affirmation of David S. Greenhaus in Support of Defendants' Motion for Partial Dismissal of the Complaint and Exhibit attached thereto** to be served by depositing a true copy thereof enclosed in a Federal Express paid wrapper, in an official depository under the exclusive care of Federal Express Overnight Service and via email addressed to:

FELIX Q. VINLUAN, ESQ.
LAW OFFICE OF FELIX Q. VINLUAN
ATTORNEYS FOR PLAINTIFF
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DAVID S. GREENHAUS, ESQ.